IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SIXTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 6127 of 2004

Between:

G.Damodar Reddy, S/o.Ram Reddy,
R/o.Lattipur Village, Uppununthala Mandal,
Mahabubnagar District.

..... PETITIONER

AND

1 The Asst.Commissioner Endowment Department Mahabubnagar,
Mahabubnagar District.
2 Sri D.Mallaiah, S/o.Lakshmaiah,
alleged Managing Trustee of Kattamaisamma Temple, R/o.Lattipur Village,

Uppununthala Mandal, Mahabubnagar District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue a writ, order or direction particularly one in the nature of writ of Mandamus, declaring the impugned proceedings bearing No.B/2551/03 dt.6-1-2004 issued by the 1st Respondent directing the registration of the temple and appointing the 2nd respondent as Managing Trustee of Kattamaisamma Devata Temple, Lattipoor village, Mahabubnagar District as arbitrary, illegal, in violation of the proceedings of Endowment Act, against the principles of natural justice and void.

Counsel for the Petitioner:MR.K.SRINIVAS

Counsel for the Respondent No.1: GP FOR ENDOWMENTS

Counsel for the Respondent No.2: T.HANUMANTHA REDDY

AND

WRIT PETITION NO : 10268 of 2004

Between:

1 D. Muthyalu, S/o Sayulu,
2 D. Narayya, s/o Sayulu,
Both are R/o Lathipur (V), Uppununthala (M), Mahabubnagar District.

..... PETITIONERS

AND

1 Sub Inspector of Police, Uppununthala (M), Mahabubnagar District.
2 Assistant Commissioner, Endowments Department. Mahabubnagar.

3. G.Damodar Reddy, S/o Ramreddy, 63 years, Occ.President,

Managing Committee of Kattamaisamma Devatha Temple,

Lathipur Village, R/o Lathipur Village, Uppununthala Mandal,

Mahabubnagar District.

(Respondent No.3 is impleaded as per court order dated 21-07-2004 in W.P.M.P.No.15361 of 2004)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue an appropriate writ, order or direction, especially one in the nature of a writ of Mandamus, declaring the inaction of the respondent No.1 in giving protection to the petitioners in the discharge of their duties, pursuant to proceedings Rc.No.B/1376/2004, dt. 28-5-2004 of Respondent No.2 as being illegal, arbitrary and unconstitutional and further direct the Respondent No.1 to take all steps for discharge of our duties.

Counsel for the Petitioner:MR.J.VENKATESWARA REDDY

Counsel for the Respondent No.1: GP FOR HOME

Counsel for the Respondent No.2: G.P. FOR ENDOWMENTS

Counsel for the Respondent No.3: K.SRINIVAS

The Court made the following :

COMMON ORDER:

Heard Sri K.Srinivas and Sri J.Venkateswar Reddy, the learned Counsel appearing for the petitioners in these two writ petitions and also Sri T.Hanumantha Reddy, the learned Counsel for the contesting respondent in the first Writ Petition and the Government Pleader for Home, and at their request the main Writ Petitions are taken up for disposal.

2. The petitioner in W.P.No.6127 of 2004 is claiming to be a President of the Managing Committee of the temple in question. The petitioners in W.P.No.10268 of 2004 are claiming to be the pujaris of the said temple. In the first Writ Petition the petitioner seeks Writ of Mandamus challenging the proceedings bearing No.B/2551/2003 dated 06-01-2004 passed by the Assistant Commissioner, Endowments Department, Mahabubnagar, who is respondent No.1 therein, inter alia, on the ground that the respondent No.1 has erroneously registered the temple, known as Kattamaisamma Devatha Temple, Lattipoor Village, in exercise of powers under Section 43(2) of the A.P. Charitable and Hindu Religious Institutions and Endowment Act, 1987 (for short 'the Act'), without giving a go bye to the chequered events concerned with the institution and also the person, whose name is sought to be entered as Managing Trustee, and appointed the 2nd respondent therein as Managing Trustee of the said temple. It is his case that the said temple was originally not registered with the department and the same is situated on a roadside and it is only the villagers used to manage the affairs of the said temple by appointing the Managing Committee within them. It is his further case that the 2nd respondent therein took the management affairs of the temple in question in the past and he was managing the affairs of the temple and ultimately he had misappropriated substantial amount of Rs.21,500/- belonging to the temple, which was admitted by him as per the document executed on 24-03-2002, wherein he undertook to pay the said amount by 01-04-2002 into the temple account. Yet, he did not pay the said amount and therefore the villagers as per resolutions passed on 22-11-2003, appointed a Village Committee and the petitioner was elected as

President. The said committee was for the purpose of managing the affairs of the temple. In spite of the same, the 2nd respondent suppressing all these aspects approached the 1st respondent under Section 43 of the Act and somehow got the impugned proceedings. There was no proper inquiry by the respondent No.1 or any other Officer. Neither the petitioner nor any of the villagers are given proper opportunity before passing of the impugned proceedings. Having regard to the nature of allegations against the 2nd respondent, the very making of entry in his favour in any capacity, is wholly unsustainable and is against the interest of the institution. Hence, the Writ Petition.

3. In the said Writ Petition initially this Court granted orders of status quo on 01-04-2004 and thereafter on issuance of rule nisi on 13-04-2004, granted interim suspension on the said orders of registration dated 06-01-2004 in W.P.M.P.No.7964 of 2004 dated 13-04-2004.

4. Subsequently, the another Writ petition in W.P.No.10268 of 2004 was filed by the petitioners therein on 21-06-2004, inter alia, seeking Writ of Mandamus to declare the action of the 1st respondent therein viz., Sub-Inspector of Police, Uppununthala Mandal, Mahabubnagar District, in not giving proper protection in spite of the orders of the 2nd respondent therein-Assistant Commissioner, Endowments Department, Mahabubnagar, dated 28-05-2004, as illegal. It is their case that they are the archakas of the very same temple, which has been registered by the Endowments Department under the said Act, wherein the petitioners were also duly recognized and entries were made showing them as archakas and further in spite of the fact they are being doing services all along, it is only due to local politics, there is interference. Hence, they approached the 2nd respondent-Assistant Commissioner, Endowments Department, Mahabubnagar, for proper protection, whereupon, the 2nd respondent passed the orders in Rc.No.B/1376/2004 dated 28-05-2004 seeking to give the protection to them for performing archakatvam in the temple and also to initiate proper action against the persons concerned. In spite of the same, because of the political influence of the other group, the said order is not being implemented. Hence, the Writ Petition.

5. Having heard the Counsel on either side and also on perusal of the material, it is seen that the dispute now pertains to not only management of affairs of the institution

but also the performance of services as archakas in the said temple. In the later Writ Petition the petitioners claim themselves to be as archakas and whose names have been duly recognized as per the registration done by the Endowments Department under the Act. However, the very same proceedings have been under challenge. At the instance of the President of the so-called Village Committee, who is the petitioner in the first Writ Petition, and on whose challenge this Court has suspended the said proceedings as per the orders dated 13-04-2004. Apparently, the orders of suspension granted by this Court has not been referred to in the proceedings dated 28-05-2004 issued in favour of the petitioners-archakas in the later Writ Petition. In both the Writ Petitions, counters had been filed seeking vacation of the interim directions granted.

6. Prima facie, there is a serious dispute in regard to the temple, which has not been taken note of by the concerned authorities viz., the Endowments Department. The action on the part of the primary authority viz., Assistant Commissioner, Endowments Department is quite contradictory. He sought to register the very institution at the instance of the so-called pujaris and it does not show as if there is any proper enquiry with the local villagers or other responsible persons or officials of the village. Except accepting the one sided version of the archakas, there is no other record to show in support of the entries, which are sought to be made for the first time by the Department. There is also no serious dispute to the fact that the 2nd respondent in W.P.No.6127 of 2004, who claims to be the managing trustee of the temple, though against whom there is a serious allegation of misappropriation of the substantial funds of the temple, and there is a clear admission on his part with an undertaking to repay the same, yet his name is being sought to enter as managing trustee. There is also no record filed on behalf of the 2nd respondent in W.P.No.6127 of 2004 or even the petitioners-archakas in W.P.No.10268 of 2004 to show any consistency in regard to their claim either as managing trustee or archakas. It is also not the case of the 2nd respondent in W.P.No.6127 of 2004 or even that of the petitioners in W.P.No.10268 of 2004 that their claim in any capacity was recognized by the Department at any point of time, earlier. Even there is no basis to make a claim for hereditary rights on either of these parties. The petitioner in the first Writ Petition is only representing the Village Committee as a president and he is sought to be made responsible for looking after the affairs of the temple. It is not known as to how and in what capacity such committees are appointed by the villagers. There is

ample power under the provisions of the Endowments Act conferring on the concerned authorities to appoint the necessary committees to take care of any institution. The institution in question is squarely covered under the provisions of the Act and yet it is not the case of either of the party that any such committee was appointed at any point of time earlier. Be that as it may, the petitioner in the earlier Writ Petition is only representing the public cause.

7. Though the petitioner in the earlier Writ Petition is representing the public cause, the same itself cannot be given a go bye nor any credence can be attached to it. These are all matters, which required to be properly considered and appreciated by the concerned Department viz., Endowments Department before any action is taken up for registration or appointment of the committee. As against the orders of registration under Section 43 of the Act, the petitioner in the earlier Writ petition has got ample remedy of revision under Section 92 of the Act.

8. Having regard to the above, this is not proper for this Court to go into any of these aspects in exercise of powers under Article 226 of the Constitution of India. It shall be, therefore, open for the petitioners in both the Writ Petitions to approach the revisional authority under Section 92 of the Act, within a period of four weeks from today and on receipt of which the said revisional authority shall dispose of the same on merits in accordance with law after giving notice and opportunity to both sides. It is needless to mention that any such representation being filed by either of the party, it shall be seen that the other Writ petitioner is also made as a party, so as to give proper opportunity. Further, having regard to the fact that the very registration being under challenge, it shall be open for the Writ Petitioners in the later Writ Petition also to raise proper claims and objections, if any, to which they are entitled to, before the said revisional authority, which will also be considered and disposed of in accordance with law.

9. Accordingly, both the Writ Petitions are dismissed. No costs.

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B.PRAKASH RAO, J.

Dated 26-07-2004.

skmr